

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOHN D. LAMBERTSON,) No. C 12-5122 LHK (PR)
Plaintiff,)
v.) ORDER GRANTING MOTION FOR
G.D. LEWIS,) EXTENSION OF TIME TO FILE
Defendant.) AMENDED COMPLAINT;
) GRANTING MOTION TO
) VACATE BRIEFING SCHEDULE;
) DENYING MOTION FOR
) APPOINTMENT OF COUNSEL
) (Docket Nos. 22, 26, 27)

Plaintiff, a California state prisoner proceeding *pro se*, filed a civil rights complaint pursuant to 42 U.S.C. § 1983. (Docket No. 1.) The court dismissed this action without prejudice based on plaintiff's failure to timely submit a completed application to proceed *in forma pauperis* ("IFP"), or pay the filing fee. (Docket No. 4.) On December 11, 2012, plaintiff filed a motion to re-open, stating that he submitted the necessary paperwork to the prison, but through no fault of his own, the paperwork did not arrive at the court in a timely manner. (Docket No. 6.) On January 17, 2013, the court denied the motion to re-open without prejudice. The court ordered that it would consider re-opening the case if plaintiff filed a completed IFP application within thirty days. (Docket No. 10.) On February 4, 2013, plaintiff filed a completed IFP application. (Docket No. 11.) On July 16, 2013, the court re-opened this action. (Docket No. 19.) The court issued an order of service on defendant G.D. Lewis and dismissed with leave to amend the remaining claim against Doe defendants. (*Id.*) On August 19, 2013, plaintiff filed a

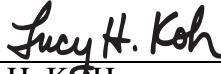
1 motion for extension of time to file an amended complaint. (Docket No. 22.) On September 19,
2 2013, plaintiff filed an amended complaint. (Docket No. 24.) On October 3, 2013, defendant
3 filed a motion requesting the court to screen the amended complaint and vacate the current
4 briefing schedule. On October 23, 2013, plaintiff filed a motion requesting appointment of
5 counsel. (Docket No. 27.)

6 Plaintiff's motion for extension of time to file an amended complaint is **GRANTED**.
7 Plaintiff's amended complaint, filed September 19, 2013, is deemed timely. Defendant's motion
8 is **GRANTED**. The briefing schedule created pursuant to the court's order dated July 16, 2013
9 (docket no. 19), is **VACATED**. The court shall screen plaintiff's amended complaint in a
10 separate order. Plaintiff's motion for appointment of counsel is **DENIED** for want of
11 exceptional circumstances. *See Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997); *see also*
12 *Lassiter v. Dep't of Social Services*, 452 U.S. 18, 25 (1981) (there is no constitutional right to
13 counsel in a civil case). This denial is without prejudice to the court's *sua sponte* appointment of
14 counsel at a future date should the circumstances of this case warrant such appointment.

15 This order terminates docket numbers 22, 26 and 27.

16 IT IS SO ORDERED.

17 DATED: 11/7/13


18 LUCY H. KOH
United States District Judge

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